

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

NETLIST, INC.,

Plaintiff,

V.

SAMSUNG ELECTRONICS CO, LTD, ET
AL.,

Defendants.

NETLIST, INC.,

Plaintiff,

V.

MICRON TECHNOLOGY, INC., ET AL.,

Defendants.

CIV. A. NO. 2:22-CV-00293-JRG

(Lead Case)

CIV. A. NO. 2:22-CV-00294-JRG

(Member Case)

ORDER OF SPECIAL MASTER

By Order of the Court dated December 8, 2023 (Dkt. No. 269), the undersigned was appointed Special Master. Under the provisions of that Order, the Special Master held a status conference with the parties via remote teleconference on December 21, 2023 to address the conduct of the Special Master proceedings, including setting a hearing date. This order summarizes the Special Master's guidance to the parties.

1. Hearing Regarding Pending Discovery Disputes

The Special Master shall conduct a hearing on the discovery motions noted in the Court’s Order Appointing Special Master: Dkt. Nos. 128, 139, 142, 158, 176, 193, 199, 202, 218, 220, 221, 222, 223, 224, 225, and 226. (See Dkt. No. 269 at 2). The hearing shall be held on **Friday, January 5, 2024, at 10:00 a.m. Central Time**, via Zoom teleconference. The Special Master does not anticipate that the hearing will continue for more than one day.

2. Plaintiff's Motion to Compel Micron Defendants to De-Designate Portions of Deposition Testimony of Scott Cyr (Dkt. No. 274)

Prior to the December 21, 2023 status conference, counsel for Plaintiff raised an issue regarding the Special Master's authority to address Plaintiff's Motion to Compel Micron Defendants to De-Designate Portions of Deposition Testimony of Scott Cyr (Dkt. No. 274). The Special Master advised the parties that, absent further order of the Court, the only motions to be addressed by the Special Master would be those specifically noted in the Order Appointing Special Master. Accordingly, absent further order of the Court, the Special Master does not intend to address Plaintiff's Motion to Compel Micron Defendants to De-Designate Portions of Deposition Testimony of Scott Cyr (Dkt. No. 274).

3. Joint Status Report

The parties are ordered to submit to the Special Master, no later than **12:00 p.m.** on **Thursday, January 4, 2023**, a joint status report addressing the following issues:

- Updates regarding the narrowing of disputes within the scope of the Special Master's appointment, including any motions rendered moot or otherwise resolved by agreement of the parties, following good faith efforts by the parties to meet and confer in advance of the January 5 hearing;
- Agreement of the parties regarding the selection of and provision for a court reporter for the January 5 hearing;
- Plaintiff and Samsung's positions regarding the impact of the Ninth Circuit Court of Appeals decision in *Netlist Inc. v. Samsung Electronics Co., Ltd.*, No. 22-55209, (Dkt. No. 77), (9th Cir. Oct. 17, 2023) on the disputes to be addressed by the Special Master; and
- Updates regarding the parties' meet and confer efforts regarding division of the Special Master's compensation, bearing in mind that the majority of disputes within the scope of the Special Master's appointment are between Plaintiff and Samsung.

4. Submission of Filings to Special Master

The parties are ordered to provide hard copies of all motions, responses, and other briefs to the Special Master no later than **December 29, 2023**. Exhibits attached to the filed briefs need not be provided in hard copy. Hard copies shall be sent to the following address:

Folsom ADR PLLC
6002 B Summerfield Drive
Texarkana, Texas 75503

Subject to the stipulation of the parties regarding the applicability of the Court's Protective Order (Dkt. No. 60) to consultants retained by the Special Master pursuant to the Order Appointing Special Master (*see* Dkt. No. 269 at 6), the parties are further ordered to provide hard copies of all briefing and electronic copies of all briefing and exhibits to Mr. William Nilsson of Jackson Walker LLP no later than **December 29, 2023**. Hard copies shall be sent to the following address:

William Nilsson
Jackson Walker LLP
2323 Ross Ave., Suite 600
Dallas, Texas 75201

Signed this 22nd day of December 2023.

/s/ David Folsom
David Folsom
Special Master
TXBN: 07210800
FOLSOM ADR PLLC
6002-B Summerfield Drive
Texarkana, Texas 75503
Telephone: (903) 277-7303
E-mail: david@folsomadr.com

CERTIFICATE OF SERVICE

The undersigned certifies that the foregoing document was filed electronically in compliance with Local Rule CV-5(a) on this 22nd day of December 2023. As such, this document was served on all counsel who are deemed to have consented to electronic service. Local Rule CV-5(a)(3)(A).

/s/ David Folsom
David Folsom